

U.S. Department of Justice



*United States Attorney
District of Maryland
Northern Division*

*Rod J. Rosenstein
United States Attorney*

*36 South Charles Street
Fourth Floor
Baltimore, Maryland 21201*

*DIRECT: 410-209-4835
MAIN: 410-209-4800
FAX: 410-962-3091
TTY/TDD: 410-962-4462*

*Harry M. Gruber
Assistant United States Attorney*

Harry.Gruber@usdoj.gov

October 16, 2014

Honorable J. Mark Coulson
United States Magistrate Judge
United States Courthouse
101 West Lombard Street
Baltimore, Maryland 21201

Re: United States v. Shaun Tucker
JFM-14-427

Dear Judge Coulson:

I write with regard to the recent Notice filed by the Defendant in the above-captioned case. The United States requests that the Court consider the following issues, seek further clarification of the facts, and potentially hold a hearing if these issues cannot be addressed to the satisfaction of pretrial services, the government, and the Court.

First, in the pretrial services interview of Mr. Tucker, Mr. Tucker stated that he was a manager at Quantell. Based on the government's investigation, it is our belief that Mr. Tucker owned and controlled Quantell during the time period set forth in the Indictment. His current status as an owner and controlling individual is relevant and material to the issues raised in the notice regarding conditions of release. Accordingly, the United States believes it is appropriate for Mr. Tucker to unequivocally state to the Court, pretrial, and the government whether he presently owns Quantell and/or is controlling the company.

Second, the United States is aware of a relationship between Quantell and Carday Associates. Nevertheless, in light of this Court's understandable concern at the initial appearance about Mr. Tucker's continued involvement in the health and welfare plan, the government submits that it is appropriate for the Defendant to detail, in writing, the current responsibilities of Mr. Tucker and Carday with respect to the health and welfare plans.¹

Third, the United States is concerned about the ambiguous nature of the filing by the

¹ For example, is Carday presently functioning as a third-party administrator of the Quantell health and welfare plans? Does Mr. Tucker have the authority to attempt to transfer health and welfare plan monies or have steps been taken to restrict his ability to direct such transfers? Is Carday aware of the pending charges such that it can adequately protect and insulate the beneficiaries of the health and welfare plans against possible harm while the Defendant is on pretrial release?

Defendant. To the extent that any actions need to be taken by Mr. Tucker with respect to the ERISA and/or health and welfare plans, the United States requests that those actions be fully disclosed in writing to pretrial services and the government no less than 7 days in advance of any action. This is especially true since the health and welfare beneficiaries are likely unaware that the Defendant is currently charged with embezzling ERISA plan money and, therefore, may not be in a position to protect themselves against malfeasance.

Fourth, the United States requests that the Court impose a deadline (two weeks or 30 days for example) after which Mr. Tucker will no longer be involved in the administration of the health and welfare plans of Quantell.

To address these concerns, the United States suggests that perhaps the Defendant can provide pretrial and the United States with additional information in writing, including a full list of Mr. Tucker's current duties as the Plan Administrator (and the names of any health and welfare plans over which he is the current Plan Administrator). It is our understanding that Quantell and the Defendant have not filed any Form 5500 reports with the U.S. Department of Labor since 2010.²

At this point, the United States is merely requesting additional information and clarification of the Defendant's current status and his proposed actions.³ If the written information provided by the Defendant does not address these concerns, the United States submits that the Court may want to consider holding a hearing and/or directly resolving these matters.

Respectfully submitted,

Rod J. Rosenstein
United States Attorney

By: _____/s/_____
Harry M. Gruber
Judson Mihok
Assistant United States Attorneys

cc: David Schertler, Esq.
Joseph Cruse, U.S. Pretrial Services

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Form 5500s are annual reports that the U.S. Department of Labor relies upon with regard to health and welfare plans. The United States did not learn of the Defendant's intent to raise this issue until the recent filing in Pacer.